



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

SB2947

Introduced 2/1/2012, by Sen. Ira I. Silverstein

#### SYNOPSIS AS INTRODUCED:

415 ILCS 5/21.1

from Ch. 111 1/2, par. 1021.1

Amends the Environmental Protection Act. Provides that, except as otherwise provided in the Act, no person other than the State of Illinois, its agencies and institutions, or a unit of local government shall own or operate (rather than conduct) any waste disposal operation on or after March 1, 1985, which requires a specified permit, unless that person has posted with the Agency a performance bond or other security. Provides that, on and after the effective date established by the USEPA for MSWLF units to provide financial assurance under Subtitle D of the Resource Conservation and Recovery Act, no person, other than the State of Illinois, its agencies and institutions, shall own or operate (rather than conduct) any disposal operation at a MSWLF unit that requires a specified permit, unless that person has posted with the Agency a performance bond or other security. Effective immediately.

LRB097 14305 JDS 59086 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Environmental Protection Act is amended by  
5 changing Section 21.1 as follows:

6 (415 ILCS 5/21.1) (from Ch. 111 1/2, par. 1021.1)

7 Sec. 21.1. (a) Except as provided in subsection (a.5), no  
8 person other than the State of Illinois, its agencies and  
9 institutions, or a unit of local government shall own or  
10 operate ~~conduct~~ any waste disposal operation on or after March  
11 1, 1985, which requires a permit under subsection (d) of  
12 Section 21 of this Act, unless such person has posted with the  
13 Agency a performance bond or other security for the purpose of  
14 insuring closure of the site and post-closure care in  
15 accordance with this Act and regulations adopted thereunder.

16 (a.5) On and after the effective date established by the  
17 United States Environmental Protection Agency for MSWLF units  
18 to provide financial assurance under Subtitle D of the Resource  
19 Conservation and Recovery Act, no person, other than the State  
20 of Illinois, its agencies and institutions, shall own or  
21 operate ~~conduct~~ any disposal operation at a MSWLF unit that  
22 requires a permit under subsection (d) of Section 21 of this  
23 Act, unless that person has posted with the Agency a

1 performance bond or other security for the purposes of:

2 (1) insuring closure of the site and post-closure care  
3 in accordance with this Act and its rules; and

4 (2) insuring completion of a corrective action remedy  
5 when required by Board rules adopted under Section 22.40 of  
6 this Act or when required by Section 22.41 of this Act.

7 The performance bond or other security requirement set  
8 forth in this Section may be fulfilled by closure or  
9 post-closure insurance, or both, issued by an insurer licensed  
10 to transact the business of insurance by the Department of  
11 Insurance or at a minimum the insurer must be licensed to  
12 transact the business of insurance or approved to provide  
13 insurance as an excess or surplus lines insurer by the  
14 insurance department in one or more states.

15 (b) On or before January 1, 1985, the Board shall adopt  
16 regulations to promote the purposes of this Section. Without  
17 limiting the generality of this authority, such regulations  
18 may, among other things, prescribe the type and amount of the  
19 performance bonds or other securities required under  
20 subsections (a) and (a.5) of this Section, and the conditions  
21 under which the State is entitled to collect monies from such  
22 performance bonds or other securities. The bond amount shall be  
23 directly related to the design and volume of the site. The cost  
24 estimate for the post-closure care of a MSWLF unit shall be  
25 calculated using a 30 year post-closure care period or such  
26 other period as may be approved by the Agency under Board or

1 federal rules. On and after the effective date established by  
2 the United States Environmental Protection Agency for MSWLF  
3 units to provide financial assurance under Subtitle D of the  
4 Resource Conservation and Recovery Act, closure, post-closure  
5 care, and corrective action cost estimates for MSWLF units  
6 shall be in current dollars.

7 (c) There is hereby created within the State Treasury a  
8 special fund to be known as the "Landfill Closure and  
9 Post-Closure Fund". Any monies forfeited to the State of  
10 Illinois from any performance bond or other security required  
11 under this Section shall be placed in the "Landfill Closure and  
12 Post-Closure Fund" and shall, upon approval by the Governor and  
13 the Director, be used by and under the direction of the Agency  
14 for the purposes for which such performance bond or other  
15 security was issued. The Landfill Closure and Post-Closure Fund  
16 is not subject to the provisions of subsection (c) of Section 5  
17 of the State Finance Act.

18 (d) The Agency is authorized to enter into such contracts  
19 and agreements as it may deem necessary to carry out the  
20 purposes of this Section. Neither the State, nor the Director,  
21 nor any State employee shall be liable for any damages or  
22 injuries arising out of or resulting from any action taken  
23 under this Section.

24 (e) The Agency shall have the authority to approve or  
25 disapprove any performance bond or other security posted  
26 pursuant to subsection (a) or (a.5) of this Section. Any person

1 whose performance bond or other security is disapproved by the  
2 Agency may contest the disapproval as a permit denial appeal  
3 pursuant to Section 40 of this Act.

4 (f) The Agency may establish such procedures as it may deem  
5 necessary for the purpose of implementing and executing its  
6 responsibilities under this Section.

7 (g) Nothing in this Section shall bar a cause of action by  
8 the State for any other penalty or relief provided by this Act  
9 or any other law.

10 (Source: P.A. 88-496; 88-512; 89-200, eff. 1-1-96.)

11 Section 99. Effective date. This Act takes effect upon  
12 becoming law.